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February 2, 2023

## VIA ECF

Honorable Pamela K. Chen  
United States District Judge,  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Freeman, et al. v. HSBC Holdings plc, et al.*, 14-cv-6601 (“*Freeman I*”)  
*Freeman, et al. v. HSBC Holdings plc, et al.*, 18-cv-7359 (“*Freeman II*”)  
*Bowman, et al. v. HSBC Holdings plc, et al.*, 19-cv-2146 (“*Bowman*”)

Dear Judge Chen:

The Moving Defendants<sup>1</sup> respectfully write in response to plaintiffs’ January 19, 2023 Letter, *Freeman II* ECF No. 106, regarding the Second Circuit’s January 5, 2023 decision affirming the dismissal of plaintiffs’ claims against the Moving Defendants in *Freeman I*, No. 19-3970, 2023 WL 105568 (2d Cir. Jan. 5, 2023).

Plaintiffs’ letter suggests a number of potential approaches in the above-referenced cases, including anticipated motions seeking leave to amend the complaints in all three actions. There are significant issues raised by all three anticipated motions, including the final judgment already in place in *Freeman I* and plaintiffs’ pending petition for rehearing *en banc* of the Second Circuit’s *Freeman I* decision.

The Moving Defendants do agree with plaintiffs’ suggestion that Your Honor might continue staying these cases pending the United States Supreme Court’s forthcoming decision in *Twitter v. Taamneh*, No. 21-1496. The *Twitter* case will be the first time the Supreme Court

<sup>1</sup> The Moving Defendants are HSBC Holdings plc; HSBC Bank plc; HSBC Bank Middle East Limited; HSBC Bank USA, N.A.; Barclays Bank PLC; Standard Chartered Bank; Royal Bank of Scotland N.V. (f/k/a ABN AMRO Bank N.V.); Credit Suisse AG; and Commerzbank AG.

addresses the pleading standards for JASTA aiding and abetting claims, and thus may impact any request by Plaintiffs to amend their dismissed claims for aiding and abetting in *Freeman II* and *Bowman* (the final judgment affirmed in *Freeman I* having foreclosed any further proceedings in that case absent, as plaintiffs acknowledge, relief under Rules 59(e) or 60(b)). The Moving Defendants therefore respectfully submit that it will save expense and promote judicial economy to defer any future motion practice in the above-referenced cases until *Twitter* is decided, which will occur by the end of the current Term in June.

Accordingly, the Moving Defendants respectfully request that the current stays in *Freeman II* and *Bowman* be continued and any motion practice in *Freeman I* be deferred during the time that the *Twitter* case is pending before the United States Supreme Court. Plaintiffs have advised us that they agree to such a stay, and intend to ask the Court for a status conference to discuss how best to proceed during the pendency of the stay. The Moving Defendants will respond to plaintiffs' request for a status conference after they receive it and review it.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M M L' followed by a long horizontal stroke.

Mark E. McDonald

cc: All Counsel of Record (via ECF)